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Yoshikazu Yokomizo

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FITZPATRICK CELLA HARPER & SCINTO  
30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112

EXAMINER

HOSSAIN, FARZANA E

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/025,864	<b>Applicant(s)</b> YOKOMIZO, YOSHIKAZU	
	<b>Examiner</b> FARZANA E. HOSSAIN	<b>Art Unit</b> 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-3, 26 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 11 December 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to communications filed 10/17/2008. Claim 1, 26 and 27 were amended. Claims 2 and 3 are original. Claims 4-25 are cancelled.

### ***Response to Arguments***

2. Applicant's arguments filed 06/04/2008 have been fully considered but they are not persuasive.

Regarding Claims 1, 26 and 27, the applicant argues that the applied art, alone or combination is not seen to disclose or suggest the features of a commercial content server which holds commercial content to be combined with a second program, holds in a condition information database, information indicating whether or not a sponsor of a first program allows to provide a commercial of another business type, and iii) after receiving a request for a commercial content from a content management server and information specifying the sponsor of the first program, and searching, from the commercial database, for a corresponding commercial content including commercial content of another business type and excluding commercial content of the same business type of the sponsor of the first program if the sponsor of the first program allows to provide a commercial content of another business type by referring to the

condition information database, and notifying the commercial content to the content management server (Page 10). The applicant argues that Shoff discloses supplemental content rather than sponsor information broadcast by the broadcast station (Pages 10-11). The applicant argues that Shoff's terminal does not disclose notifying the content management server of the sponsor information received from digital broadcast station and content management server when the request including sponsor information from the terminal is receive, sends the received sponsor information to the commercial server the commercial server comprises a commercial content database that holds commercial contends to be combined with second program which is to be displayed with the first program request of commercial content (Page 11). The applicant repeats these arguments in view of Goldman, Haber and Hite (Pages 10-13). The applicant argues that Goldman is used inserting an advertisement to a displayed document (Page 11). The applicant argues that Haber is merely providing links to sponsor's products (Page 12). The applicant also argues that Hite is a system for providing advertisements only (Page 13).

In response to the argument, the examiner respectfully disagrees. The arguments were made in the previous rejection. The examiner maintains these rejections and leaves the response to arguments from the previous office action. The new limitations are met by Haber. Haber discloses request means for wherein the request from the terminal is received by the receiving means for the content management server (Column 9, lines 59-67), notifying the content management server of the sponsor information, which specifies the sponsor of the first program, received

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from the video server or digital broadcast station (Column 4, lines 20-30, Column 10, lines 1-10); second output means for outputting the content of the second program received from the content management server to the display device so that the display device the content of the second program with the first program (Figure 2, Column 4, lines 20-30, Column 6, lines 17-31); content management server comprises request means for when the request including received sponsor information from the terminal is received by receiving means, sending the received sponsor information specifying the sponsor or advertiser of the first program to the commercial server and requesting commercial content from the commercial server and receiving commercial content from the commercial content from commercial server (Column 4, lines 20-30, 60-64, Column 10, lines 1-10); combining means for combining the commercial content sent from the commercial server with the second program as requested by the terminal and transmitted the combined information as the content of the second program (Column 4, lines 20-30, Column 10, lines 1-10). Shoff discloses that the commercial server comprises a commercial content database that holds commercial contents as advertisements or merchandise are maintained in the database (Figure 4, 52, 54, 80, 86). It is necessarily included that the commercial server comprises searching means for searching for a corresponding commercial content from the data based on information specifying the sponsor of the first program as the URL includes information about the advertisement or merchandise (Figure 3, 58) from the content management server (Page 3, paragraphs 0035-0039, Page 4, paragraphs 0042-0047, Figure 6, Figure 7). Shoff discloses the content management server comprises storage means

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(Figure 4, 44, 46) and sending information specifying sponsor of the first program to the commercial server or the EPG data structure which includes target specifications for referencing locations to the supplemental content or advertising (Page 3, paragraph 0036, Page 4, paragraph 0046, Page 2, paragraph 0018). Goldman and Haber disclose a server with commercial contents to be combined with the second program. See below.

Goldman discloses a content management server comprising storage means storing the second programs (Figure 3A, 68); commercial content from the commercial server (Figures 3A, Figure 3B, Column 9, lines 8-13), commercial server holding commercial content to be combined with the second program as requested by the terminal (Column 9, lines 20-60) and transmitting to the terminal, the combined information as the content of the second program (Column 9, lines 32-62) and commercial server comprising information determining the combination of the sponsor of the first program or advertiser of the first program as any one or organization paying for advertising during a program (Column 11, lines 35-46, Column 2, lines 44-56) and notifying the commercial content to the content management server (Column 9, lines 7-19).

Hite discloses wherein the commercial server (Figure 1, 100, 200 Column 9, lines 39-41) comprises a commercial content database that holds commercial contents (Figure 2, Column 9, lines 58-60, Figure 3, 206), a condition information database that holds information indicating whether the sponsor of the first program allows to provide a commercial of another business type (Figure 2, 124, Column 3, lines 45-62), searching

means, from the commercial database, searching for corresponding commercial content among commercial contents including commercial content of another business type and excluding commercial content of the same business type as the sponsor of the first program if the sponsor of the first program allows to provide commercial content of another business type by referring to the condition information database (Column 3, lines 46-52, Column 10, lines 33-52) and notifying the commercial content to the content management server or media origination facility (Figure 1, 300 Figure 2, Figure 4, 310). Hite discloses a system of commercial contents and Goldman and Haber disclose commercial contents and second programs combined with Shoff disclose the limitations argued by the applicant.

Furthermore, in *KSR Intl. Co. v. Teleflex Inc.*, 127 S.Ct 1727, No. 04-1350, slip. op. at 12 (2007), the Court found that if all the claimed elements are known in the prior art then one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yield predictable results to one of ordinary skill in the art at the time of the invention.

Rajan is not used in the rejection of independent claims.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to

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a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shoff et al (2005/0015815 and hereafter referred to as "Shoff") in view of Goldman et al US (7,051,351 and hereafter referred to as "Goldman"), Haber (US 7,000,242) and Hite et al (US 5,774,170 and hereafter referred to as "Hite").

Regarding Claim 1, Shoff discloses an Internet DTV system having:

a digital broadcast station or broadcast headend (Figure 4, 22) that broadcasts a program by using a well-known broadcast radio wave (Page 3, paragraph 0032);

a content management server provided on the Internet that manages and delivers second programs or hypertext files such as HTML documents (Figure 4, 22, 44);

a commercial server, providing on the Internet, including commercial contents (Figure 4, 54, 80, Page 3, paragraph 0036-0037); and

a terminal, provided on an audience side, that receives a digital broadcast and accesses the Internet (Figure 1, Figure 4, 62). Merriam-Webster's 10<sup>th</sup> edition Collegiate Dictionary defines sponsor as a person or an organization that pays for or plans and carries out a project or activity especially one that pays the cost of radio or television program usually in return for advertising time during its course. Shoff discloses advertising and merchandise, which is related to the program which is therefore provided by a sponsor (Page 3, paragraph 0036, Page 2, paragraph 0018).

Shoff discloses wherein the broadcast station comprising:

broadcasting means for broadcasting the first program and information described in a predetermined format specifying the first program as the receiver receives broadcast data in a format such as digital or analog (Page 2, paragraph 0015, Page 3, paragraph 0034), the information including a symbol to be selected by an audience (Page 6, paragraphs 0069, 0071-0078, Figure 6, Figure 7), address information indicating a location of the second program or hyperlink or pointer or any other designation or URL of the content upon selection, and a sponsor of the first program (Page 3, paragraphs 0035, 0040, Page 4, paragraphs 0043-0047, Figure 3, 58),

and wherein the terminal comprising:

means for receiving the first program broadcast by the broadcast station and the information specifying the first program from the broadcast station (Figure 1, Figure 4, 40, 46, 74, Abstract, Page 4, paragraph 0049); access means for accessing the Internet (Figure 4, 74, 82, Figure 5, Page 4, paragraph 0054);

first output means for outputting the received program to a predetermined display device so that the symbol described in the received information is displayed on the first program (Page 6, paragraphs 0069, 0071-0078, Page 4, paragraph 0054, Page 5, paragraphs 0059-0061, Page 7, Table 1, Page 8, Table 2);

input means for inputting designation information from an operator (Figure 4, 74, 82, Figure 5, page 4, paragraph 0054, Page 7, Table 1, paragraphs 0081-0090, Page 8, Table 2, paragraphs 0091-0092);

request means for, if an input designation by said input means is related to the display symbol, accessing the content management server specified by the received

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information by the access means by using a described URL for the second program (Page 5, paragraph 0065, Page 6, paragraphs 0069, 0071-0078), and issuing a request for transfer of the content by selecting content for display of the second program (Page 3, paragraphs 0036-0039); and

second output means for outputting the content received from the content management server to the display device as it is necessarily included that the terminal displays the content received from the content management server (Page 3, paragraphs 0036-0039). Shoff discloses that the commercial server comprises a commercial content database that holds commercial contents (Figure 4, 52, 54, 80, 86). It is necessarily included that the commercial server comprises searching means for searching for a corresponding commercial content from the data based on information specifying the sponsor of the first program as the URL includes information about the advertisement or merchandise (Figure 3, 58) from the content management server (Page 3, paragraphs 0035-0039, Page 4, paragraphs 0042-0047, Figure 6, Figure 7). Shoff discloses the content management server comprises storage means (Figure 4, 44, 46) and sending information specifying sponsor of the first program to the commercial server or the EPG data structure which includes target specifications for referencing locations to the supplemental content or advertising (Page 3, paragraph 0036, Page 4, paragraph 0046, Page 2, paragraph 0018)

Shoff does not explicitly information including sponsor information specifying a sponsor, content management server comprising: request means sending the information specifying the sponsor or advertiser of the first program to the commercial

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server, notifying the content management server of the sponsor information received from the digital broadcast station and requesting commercial content from the commercial server and receiving commercial content from the commercial content from commercial server, combining means for combining the commercial content sent from the commercial server with the content requested by the terminal and transmitting the information to the terminal, further wherein the commercial server comprising: information determining the combination of the sponsor and the commercial content of the second program, and notifying the commercial content to the content management server.

In analogous art, Goldman discloses a content management server (Figure 3A, 16) and a commercial server (Figure 3A, 66) and a content management server comprising storage means storing the second programs (Figure 3A, 68); receiving means for receiving the request from the terminal (Column 8, lines 43-45, Column 9, lines 20-45, Column 10, lines 20-45); request means for wherein the request form the terminal is received by the receiving means for the content management server (Column 8, lines 43-45, Column 9, lines 20-45, Column 10, lines 20-45), (Column 11, lines 35-46, Column 2, lines 44-56), receiving commercial content to be combined with second programs from the commercial server (Figures 3A, Figure 3B, Column 9, lines 8-13), combining means for combining the commercial content sent from the commercial server with the content with the second program requested by the terminal (Column 9, lines 20-60) and transmitting to the terminal, the combined information as the content of the second program (Column 9, lines 32-62) and commercial server

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comprising information determining the combination of the sponsor of the first program or advertiser of the first program as any one or organization paying for advertising during a program (Column 11, lines 35-46, Column 2, lines 44-56) and notifying the commercial content to the content management server (Column 9, lines 7-19).

Therefore, it would have been obvious to one of ordinary skill in the art to modify Shoff to include a content management server comprising combining means for combining the commercial content sent from the commercial server with the content requested by the terminal (Column 9, lines 20-45), and commercial server comprising information determining the combination of the sponsor of the first program or advertiser of the first program as any one or organization paying for advertising during a program (Column 11, lines 35-46, Column 2, lines 44-56) and notifying the commercial content to the content management server (Column 9, lines 7-19) as taught by Goldman in order to provide advertising effectiveness and to collect more advertising fees from advertisers (Column 2, lines 44-56) as disclosed by Goldman.

In analogous art, Haber discloses a digital broadcast station or video server (Figure 1, 210) transmitting the first program or video and information including sponsor information specifying a sponsor or hyperlink which corresponds to a sponsor website (Column 4, lines 36-40, 58-64), content management server (Figure 1, 205) and a commercial server (Figure 1, 215a, 215b) the commercial server with a storage device with commercial contents to be combined with second program which is to be displayed with the first program (Figure 1, 216, Figure 2, Column 4, lines 20-30, Column 5, lines 8-10), request means for wherein the request from the terminal is received by the

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receiving means for the content management server (Column 9, lines 59-67), notifying the content management server of the sponsor information, which specifies the sponsor of the first program, received from the video server or digital broadcast station (Column 4, lines 20-30, Column 10, lines 1-10); second output means for outputting the content of the second program received from the content management server to the display device so that the display device the content of the second program with the first program (Figure 2, Column 4, lines 20-30, Column 6, lines 17-31); content management server comprises request means for when the request including received sponsor information from the terminal is received by receiving means, sending the received sponsor information specifying the sponsor or advertiser of the first program to the commercial server and requesting commercial content from the commercial server and receiving commercial content from the commercial content from commercial server (Column 4, lines 20-30, 60-64, Column 10, lines 1-10); combining means for combining the commercial content sent from the commercial server with the second program as requested by the terminal and transmitted the combined information as the content of the second program (Column 4, lines 20-30, Column 10, lines 1-10); receiving means for receiving from the content management server the request of commercial content and sponsor information specifying the sponsor of the first program (Column 4, lines 20-30, 60-64, Column 5, lines Column 10, lines 1-10). Haber discloses the commercial content to be combined with a second program from the commercial content from commercial server (Column 4, lines 20-30, Column 10, lines 1-10).

In analogous art, Hite discloses wherein the commercial server (Figure 1, 100, 200 Column 9, lines 39-41) comprises a commercial content database that holds commercial contents (Figure 2, Column 9, lines 58-60, Figure 3, 206), a condition information database that holds information indicating whether the sponsor of the first program allows to provide a commercial of another business type (Figure 2, 124, Column 3, lines 45-62), searching means, from the commercial database, searching for corresponding commercial content among commercial contents including commercial content of another business type and excluding commercial content of the same business type as the sponsor of the first program if the sponsor of the first program allows to provide commercial content of another business type by referring to the condition information database (Column 3, lines 46-52, Column 10, lines 33-52) and notifying the commercial content to the content management server or media origination facility (Figure 1, 300 Figure 2, Figure 4, 310).

Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination to include request means for wherein the request from the terminal is received by the receiving means for the content management server (Column 9, lines 59-67), notifying the content management server of the sponsor information, which specifies the sponsor of the first program, received from the video server or digital broadcast station (Column 4, lines 20-30, Column 10, lines 1-10); second output means for outputting the content of the second program received from the content management server to the display device so that the display device the content of the second program with the first program (Figure 2, Column 4, lines 20-30, Column 6, lines

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17-31); content management server comprises request means for when the request including received sponsor information from the terminal is received by receiving means, sending the received sponsor information specifying the sponsor or advertiser of the first program to the commercial server and requesting commercial content from the commercial server and receiving commercial content from the commercial content from commercial server (Column 4, lines 20-30, 60-64, Column 10, lines 1-10), combining means for combining the commercial content sent from the commercial server with the second program as requested by the terminal and transmitted the combined information as the content of the second program (Column 4, lines 20-30, Column 10, lines 1-10); receiving means for receiving from the content management server the request of commercial content and information specifying the sponsor of the first program (Column 4, lines 20-30, Column 10, lines 1-10) as taught by Haber in order to provide a way to track user's activity to share profits from purchases (Column 2, lines 34-46) as disclosed by Haber.

Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination to include a condition information database that holds information indicating whether the sponsor of the first program allows to provide a commercial of another business type (Figure 2, 124, Column 3, lines 45-62), searching means, from the commercial database, searching for corresponding commercial content among commercial contents including commercial content of another business type and excluding commercial content of the same business type as the sponsor of the first program if the sponsor of the first program allows to provide commercial content of

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another business type by referring to the condition information database (Column 3, lines 46-52, Column 10, lines 33-52) as taught by Hite in order to provide an advertising system in which advertisers are efficiently targeting consumers (Column 1, lines 18-40) as disclosed by Hite.

Furthermore, in *KSR Intl. Co. v. Teleflex Inc.*, 127 S.Ct 1727, No. 04-1350, slip. op. at 12 (2007), the Court found that if all the claimed elements are known in the prior art then one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yield predictable results to one of ordinary skill in the art at the time of the invention.

Regarding Claim 3, Shoff, Goldman, Haber and Hite disclose all the limitations of Claim 1. Shoff discloses that the terminal has a form of set top box connected to a television receiver owned by the audience (Page 2, paragraph 0016).

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shoff in view of Goldman, Haber and Hite as applied to claim 1 above, and further in view of Rajan (WO 00/01154).

Regarding Claim 2, Shoff, Goldman, Haber and Hite disclose all the limitations of Claim 1. Shoff discloses receiving a digital broadcast and receiving digital data (Page 4, paragraph 0034). Shoff and Goldman are silent on the terminal further comprises: an MPEG2 decoder for a digital broadcast; means for interpreting a BIFS description as a scene description; and means for decoding MPEG4 data from the content management

server. Rajan discloses a terminal with a MPEG2 decoder for a digital broadcast (Page 12, lines 1-12, Page 4, lines 3-7, Figure 1, 133, 122); means for interpreting a BIFS description as a scene description (Figure 1, 122, Page 10, lines 9-30, Page 11, lines 1-31); and means for decoding MPEG4 data (Figure 1, 122-133, Page 19, lines 3-9) from the content management server or server (Page 10, lines 9-19). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination to include a terminal with a MPEG2 decoder for a digital broadcast (Page 12, lines 1-12, Page 4, lines 3-7, Figure 1, 133, 122); means for interpreting a BIFS description as a scene description (Figure 1, 122, Page 10, lines 9-30, Page 11, lines 1-31); and means for decoding MPEG4 data (Figure 1, 122-133, Page 19, lines 3-9) from the content management server or server (Page 10, lines 9-19) as taught by Rajan in order to present multimedia program using MPEG-4 standard which allows easier manipulation (Page 1, lines 7-15, Page 2, lines 12-22) as disclosed by Rajan.

6. Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shoff in view of Haber and Hite.

Regarding Claims 26 and 27, Shoff discloses a commercial server (Figure 4, 54, 80, Page 3, paragraph 0036-0037) and a method performed by a commercial server which can communicate with a content management server delivers second programs or hypertext files such as HTML documents and commercial content or advertisement (Figure 4, 22, 44) to a terminal, provided on an audience side, that displays a first

program from a digital broadcast station (Figure 1, Figure 4, 62, Figure 4, 22 Page 3, paragraphs 0032, 0034, 0036-0039, Page 2, paragraph 0015). Merriam-Webster's 10<sup>th</sup> edition Collegiate Dictionary defines sponsor as a person or an organization that pays for or plans and carries out a project or activity especially one that pays the cost of radio or television program usually in return for advertising time during its course. Shoff discloses advertising and merchandise, which is related to the program which is therefore provided by a sponsor (Page 3, paragraph 0036, Page 2, paragraph 0018). Shoff discloses that the commercial server comprises a commercial content database that holds commercial contents (Page 3, paragraph 0036-0037, Figure 4, 52, 54, 80, 86). Shoff is silent on all other limitations.

In analogous art, Haber discloses a content management server (Figure 1, 205) and a commercial server (Figure 1, 215a, 215b), the commercial server with a storage device with commercial contents to be combined with second program (Figure 1, 216, Column 4, lines 20-30, Column 5, lines 8-10, Column 8, lines 13-45) to be displayed with a first program (Figure 2) which is broadcast by a digital broadcast station or video server (Figure 1, 210) so that the an audience side displays the first program (Figure 2) and requesting commercial content from the commercial server and receiving commercial content from commercial server (Column 4, lines 20-30, Column 10, lines 1-10), combining means for combining the commercial content sent from the commercial server with the second program as requested by the terminal and transmitted the combined information as the content of the second program (Column 4, lines 20-30, Column 5, lines 39-40, Column 10, lines 1-10); receiving means for receiving from the

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content management server the request of commercial content and information specifying the sponsor of the first program (Column 4, lines 20-30, Column 5, lines 5-20, 39-55, Column 10, lines 1-10).

In analogous art, Hite discloses a commercial server (Figure 1, 100, 200, Figure 1, 100, 200 Column 9, lines 39-41, Figure 3, 206), which can communicate with a plurality of content management servers (Figure 1, 300, Column 9, lines 17-20), each of which has storage means for storing second programs (Figure 4, 316) and provides a second program and commercial content to a terminal (Figure 4, 324, 303, 302, Figure 1, 400, Figure 5), which is provided on an audience side and displays a first program from a digital broadcast station, and provides the commercial content to a content management server in response to a request from the content management server, the commercial server (Figure 1, 100, 200 Column 9, lines 39-41) comprises a commercial content database that holds commercial contents (Figure 2, Column 9, lines 58-60), a condition information database that holds information indicating whether the sponsor of the first program allows to provide a commercial of another business type (Figure 2, 124, Column 3, lines 45-62), searching means, from the commercial database, searching for corresponding commercial content among commercial contents including commercial content of another business type and excluding commercial content of the same business type as the sponsor of the first program if the sponsor of the first program allows to provide commercial content of another business type by referring to the condition information database (Column 3, lines 46-52, Column 10, lines 33-52) and

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notifying the commercial content to the content management server or media origination facility (Figure 1, 300 Figure 2, Figure 4, 310).

Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination to include the second program to be displayed with a first program (Figure 2, Figure 1, 216, Column 4, lines 20-30, Column 5, lines 8-10, Column 8, lines 13-45) which is broadcast by a digital broadcast station or video server (Figure 1, 210, Column 8, lines 13-45) so that the an audience side displays the first program (Figure 2) receiving means for receiving from the content management server the request of commercial content and information specifying the sponsor of the first program (Column 4, lines 20-30, Column 10, lines 1-10) and the commercial server (Figure 1, 215a, 215b) with commercial content to be combined with a second program from the commercial content from commercial server (Column 4, lines 20-30, Column 10, lines 1-10), and as taught by Haber in order to provide a way to track user's activity to share profits from purchases (Column 2, lines 34-46) as taught by Haber. Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination to include a condition information database that holds information indicating whether the sponsor of the first program allows to provide a commercial of another business type (Figure 2, 124, Column 3, lines 45-62), searching means, from the commercial database, searching for corresponding commercial content among commercial contents including commercial content of another business type and excluding commercial content of the same business type as the sponsor of the first program if the sponsor of the first program allows to provide commercial content of another business type by referring to the

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condition information database (Column 3, lines 46-52, Column 10, lines 33-52); notifying the commercial content to the content management server or media origination facility (Figure 1, 300 Figure 2, Figure 4, 310) as taught by Hite in order to provide an advertising system in which advertisers are efficiently targeting consumers (Column 1, lines 18-40) as taught by Hite.

Furthermore, in *KSR Intl. Co. v. Teleflex Inc.*, 127 S.Ct 1727, No. 04-1350, slip. op. at 12 (2007), the Court found that if all the claimed elements are known in the prior art then one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yield predictable results to one of ordinary skill in the art at the time of the invention.

### **Conclusion**

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FARZANA E. HOSSAIN whose telephone number is (571)272-5943. The examiner can normally be reached on Monday 7:30 am to 2:30 pm, Tuesday, Thursday and Friday 7:30 am to 4:30 pm and Wednesday 7:30 am to 12:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Son P Huynh/

January 19, 2009

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Primary Examiner, Art Unit 2424

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